

entertainment are twin objectives and neither is more 'primary' than the other."²² NBC argues that the "primary" purpose proposal creates a "terrible false dichotomy -- that programs that inform and educate cannot entertain."²³

Even some of the commenters who support the dichotomy in theory point approvingly to programs that entertain while they educate.²⁴ Indeed, the co-chair of the Center for Media Education has stated: "As a society, our willingness to provide programs that combine education and entertainment reflects how much we value our young people."²⁵

The Commission's proposal, however, by requiring that a program's entertainment value be clearly secondary to its educational value, will result in pedantic and dull programming. As Act III Broadcasting explains, "broadcasters will be fearful of airing a program that is too 'entertaining' lest it fail to fulfill [the Act's] programming obligations"²⁶ As a result, warns INTV, stations will "substitute inexpensive, poor quality, unpopular programs which, nonetheless, were primarily educational and informational."²⁷ Children, however, will not watch these "poor quality, unpopular

²² Comments of ABC at 10.

²³ Comments of NBC at 30.

²⁴ E.g., Comments of the Center for Media Education at 6 n.9 (describing *Beakman's World* as "a show that teaches science in an entertaining style"). The co-chair of the Center described *Beakman's World* as "a good show but it's an exception to the rule." L.A. Times at 7. Our proposal to eliminate the primary purpose test and substitute a significant purpose test is intended precisely to encourage these kinds of engaging, educational programs to become the rule rather than the exception.

²⁵ R. Mahler, "Fear Is a Great Motivator," Los Angeles Times, May 30, 1993 at 7.

²⁶ Comments of Act III Broadcasting at ii.

²⁷ Comments of INTV at 12.

programs," and hence will not learn anything from them. There appears to be little disagreement that such a result is undesirable.

B. The "Significant Purpose" Standard Proposed By Disney Will Both Encourage Broadcasters To Air Educational Programming Children Will Watch And Prevent Broadcasters From Avoiding Their Obligation To Air Educational Programming

The Commission's NOI was prompted by its concern that certain broadcasters are evidently attempting to avoid their educational programming obligation by listing purely entertaining programs such as *The Flintstones* as educational. But the problem has never been that educational programs also entertain. The litany of programs cited approvingly by Congress and the success of programs like *Sesame Street* are a testament to this fact. In addressing its concern over broadcasters relying on *The Flintstones*, therefore, the Commission must be careful not to regulate all entertainment value out of educational programs, however unwittingly.

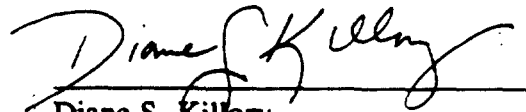
This result is easily avoided. As we urged in our Comments, the Commission should defer to a broadcaster's reasonable, good faith judgment that *a significant* -- rather than *the primary* -- purpose of a program is educational in allowing the broadcaster to count that program toward its educational programming obligation. Under this standard, broadcasters will not be discouraged from airing programs that educate while they entertain. At the same time, such an approach will ensure that broadcasters cannot avoid their programming obligation, because it would be unreasonable for a broadcaster to determine that a significant purpose of a program such as *The Flintstones* is educational.

CONCLUSION

For the reasons set forth above and in our earlier Comments, Disney urges the Commission to move cautiously as it offers further guidance to broadcasters with respect to fulfilling their educational programming obligation. To ensure that it furthers rather than frustrates the Act's goal of fostering diverse and plentiful educational programs that children will watch, the Commission should not adopt a narrow category of "core" programming. Rather, the Commission should permit broadcasters to rely on any program that has a significant purpose of educating children. If another significant purpose of the program is to entertain children while it educates them, so much the better. The goal, after all, is not to bore children with pedantic programming. The goal, as Congress itself succinctly stated, is to teach children "while entertaining them and exciting their curiosity to learn."

Respectfully submitted,

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